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| REPORT
100-104

AIRLINE MERGER TRANSFER ACT OF 1987

Mr. HOLLINGS, from the Committee on Commerce, Science,
and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

ON

S. 724



JULY 9 (legislative day, JUNE 23), 1987.—Ordered to be printed

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AIRLINE MERGER TRANSFER ACT OF 1987

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 724]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 724) to amend the Federal Aviation Act of 1958 to advance the scheduled termination date of the Essential Air Service Program, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 724, as reported, accelerates the scheduled termination—from June 1, 1989 to the date of enactment—of the Department of Transportation's (DOT) authority over mergers, acquisitions, and interlocking relationships, as well as its authority to immunize such transactions from the antitrust laws. This legislation also requires the Secretary of Labor to impose labor protection provisions in certain airline mergers or acquisitions to counter any possible adverse effects upon an airline employee's wages and working conditions that may result from such mergers or acquisitions. Additionally, this bill requires DOT to collect, on a quarterly basis, information concerning the fares and number of flights offered to or from large airports where one carrier offers at least 50 percent of all commercial airline service.

BACKGROUND AND NEEDS

TRANSFER OF AIRLINE MERGER AUTHORITY

The airline industry has experienced significant restructuring since the enactment of the Airline Deregulation Act of 1978 (P.L. 95-504). This restructuring has been particularly evident during the past 18 months. Since January 1985, seventeen applications for air carrier mergers or acquisitions have been filed. To date, twelve of those applications have been approved and another is pending. Approval of this series of mergers has led to a significant increase in concentration in the airline industry.

The Airline Deregulation Act of 1978 substantially revised the antitrust provisions of the Federal Aviation Act of 1958 administered by the Civil Aeronautics Board (CAB). The changes, consistent with Congressional intent to deregulate the airline industry, provided that mergers, consolidations, acquisitions, and intercarrier agreements would be tested by an antitrust standard similar to that traditionally applied to unregulated industries. Additionally, the Airline Deregulation Act provided that CAB's authority over mergers and interlocking relationships involving domestic air transportation, as well as the power to immunize such transactions, would be transferred to the Department of Justice (DOJ) on January 1, 1983. Congress later postponed that date to January 1, 1985, in legislation enacted in 1982 to authorize War Risk Insurance (P.L. 97-309).

This transfer of antitrust authority was further amended by the Civil Aeronautics Board Sunset Act of 1984 (P.L. 98-443). This legislation provided for the transfer to DOT, rather than DOJ, on January 1, 1985, of the authority to approve acquisitions, mergers, consolidations, and acquisitions of control within the airline industry (section 408 of the Federal Aviation Act of 1958), interlocking relationships (section 409), and immunization of such transactions from the antitrust laws (section 414). The CAB Sunset Act further provided that sections 408, 409, and 414 would cease to have effect on January 1, 1989, with DOJ assuming the antitrust authority. After that date, all air carrier mergers, acquisitions, consolidations, and interlocking relationships would be subject to the same antitrust laws and oversight procedures as other industries. S. 724 is designed to make this termination effective on the date of enactment, and to give DOJ the same authority to review and challenge airline mergers as it exercises over other industries.

Under current law, section 408 of the Federal Aviation Act of 1958 requires DOT to approve an acquisition (1) that is not inconsistent with the public interest and (2) that will not result in a monopoly or further an attempt to monopolize and that is not likely to lessen competition substantially in any region of the United States. In the event the latter standard is not satisfied, a transaction may nonetheless be approved provided the anticompetitive effects are outweighed by the public interest because they meet significant transportation conveniences and needs that cannot be met through any reasonably available alternative transaction that would be materially less anticompetitive.

The DOT has generally confined its analysis under section 408 to the competitive issues presented by the transaction. It has been DOT's position that section 408 should not be used to interfere with decisions reached by airline managers and other private parties, except to the extent that they may violate section 7 of the Clayton Act. In approving transactions under section 408, neither CAB nor DOT has ever relied upon the second test under that section, that being the approval of an otherwise anticompetitive merger because it meets significant transportation conveniences and needs.

Section 409 of the Federal Aviation Act of 1958 requires prior approval for certain types of interlocking relationships among air carriers involving officers, directors, and major shareholder. These situations are normally confronted in the event a carrier appoints, as an officer or director, a person who is an officer, director, or controlling shareholder of another carrier or a company engaged in aeronautical business. DOT's review of these relationships has primarily focused on whether their existence would threaten competition.

The scope of the review by CAB and DOT of interlocking relationships has steadily been decreasing. Prior to 1983, transactions involving air taxis, indirect air carriers and cargo carriers were all exempted by regulation from the requirement that CAB approval of interlocking relationships be obtained. In 1983, CAB exempted all remaining transactions from review under section 409, except for those involving a direct air carrier, a foreign air carrier, or a person affiliated with a direct or foreign air carrier. Finally, in July 1985, DOT issued new regulations exempting all interlocking relationships from DOT review.

DOT's exemption of these transactions did not, however, mean that they were not subject to review for potential anticompetitive effects. Under DOJ's interpretation of section 8 of the Clayton Act, DOJ has (and under this legislation will continue to have) the authority to challenge any proposed interlocking relationship. Enactment of S. 724 therefore will have little effect on whether a given interlocking relationship should be permissible.

It is the Committee's position that neither section 408 nor section 409 now provides any advantages which would not be supplied by the antitrust laws. Almost nine years have passed since enactment of the Airline Deregulation Act of 1978. Since that time, the industry has gradually adapted to an environment in which business decisions are dictated by consumer demand rather than economic regulations administered by the Federal Government. Under these circumstances, it is difficult to continue to justify the imposition of antitrust standards upon the airline industry which differ from those imposed on other types of businesses.

In addition, the Committee has found DOT's interpretation of section 408 of the Federal Aviation Act of 1958 somewhat troubling in that it has led to the approval, with little or no modification, of several transactions to which DOJ has objected. In the Committee's view, airline mergers should be judged according to the same guidelines that are applied to other industries, rather than by a potentially more lenient standard.

This bill also terminates DOT's authority to confer antitrust immunity under section 414 of the Federal Aviation Act of 1958 on

transactions approved under sections 408 and 409, which under current law will cease to be effective on January 1, 1989. To date, DOT has not granted antitrust immunity under section 414 to any transaction approved under section 408 or interlocking relationship approved under section 409. (Section 414 also permits DOT to grant immunity to intercarrier agreements filed under section 412 of the Federal Aviation Act of 1958, which will not change under this legislation.)

The Committee believes that early termination of section 414, as it relates to mergers, acquisitions, and consolidations, as well as interlocking relationships, is warranted since DOT will, after enactment of this legislation, no longer review those transactions. It is also worth noting that the need for section 414 as it relates to these transactions is questionable, since neither CAB nor DOT has ever granted antitrust immunity to a merger, acquisition, consolidation, interlocking relationship, or other transaction subject to review under sections 408 or 409.

LABOR PROTECTION PROVISIONS

In the early 1950's, the CAB began imposing labor protection provisions on airline mergers, acquisitions, route transfers, and similar transactions. With the 1972 Allegheny Mohawk merger, the evolution of airline labor protections was completed. They have remained essentially unchanged since then, and in this standardized form they have become known as the Allegheny-Mohawk labor protection provisions.

Until the early days of airline deregulation, CAB routinely applied these protections to ensure that the seniority lists of merging air carriers would be integrated in a fair and equitable manner, as well as to provide some financial benefits to offset the burden of lost jobs or reduced wages. The authority for CAB to impose the labor protection provisions came under section 408 of the Federal Aviation Act of 1958. With deregulation, and CAB's decision to abandon its policy of imposing labor protections, Congress directed that such provisions should be continued by DOT, to which the authority was transferred by the Civil Aeronautics Board Sunset Act of 1984.

Under its interpretation of section 408, DOT has maintained a policy that labor protection provisions are not appropriate in a deregulated environment. Since assuming this authority on January 1, 1985, DOT has never required the imposition of such protections. Instead, despite an emerging body of case law to the contrary, it has relied on collective bargaining to provide merger-related protections. In fact, it is the expressed policy of DOT that labor protection provisions will only be considered if they are necessary to divert a labor strike which poses a threat to the Nation's air transportation system as a whole. This approach essentially ensures that labor protection provisions will never be imposed. In the Committee's view, the standard for the imposition of airline labor protection provisions should be changed to require explicitly these provisions where mergers and acquisitions meet certain standards.

To this end, S. 724 requires that in any case in which the Secretary of Labor determines that a merger or transaction between two

air carriers would cause a reduction in employment, or adversely affect the working conditions of any air carrier employees, labor protection provisions calculated to lessen such effect must be imposed as a condition of approval. However, labor protection provisions will not be required provided the proponents of the transaction prove that the cost of the labor protection provisions outweigh the benefits of the merger. Because S. 724 sunsets DOT antitrust authority, the bill, as reported, will transfer labor protection authority from DOT to the Department of Labor (DOL).

The Committee's debate of this provision made clear that the Secretary of Labor would not have discretion to decline to impose labor protection provisions if a merger would tend to cause a reduction in employment or affect adversely the wages and working conditions of the employees of either carrier, so long as the projected costs of these protections did not exceed the financial benefits of the merger. However, the traditional standard for labor protection provisions—Allegheny-Mohawk—is not mandated by this legislation. Rather, the Secretary of Labor is directed to design the protective provisions so as to mitigate the adverse consequences resulting from a merger or acquisition, including, if necessary, procedures resulting in binding arbitration.

Prior to the Airline Deregulations Act of 1978, labor protection was imposed for more than 30 years pursuant to CAB's authority to impose conditions on the approval of airline transactions. After deregulation, CAB determined that it would no longer routinely require the imposition of labor protection provisions in airline mergers and acquisitions, although labor protection was imposed in certain circumstances. In transferring this responsibility to DOT, Congress intended that such protections would be imposed in appropriate cases. However, DOT has used its discretion to deny them in every case it has considered.

The purpose of this bill, as reported, is to reverse this trend. The imposition of labor protection provisions in airline mergers and acquisitions which cause financial harm and diminished employment conditions is an appropriate response to the unsettling effects of deregulation. The Airline Deregulation Act of 1978 created an economic condition which facilitated mergers and acquisitions. The employees of airlines which became targets of a takeover as a result of these conditions should not have to bear the adverse consequences of such transactions.

In addition to creating a more affirmative requirement for the imposition of labor protection provisions in airline mergers, S. 724 transfers the authority to impose such protections to the Secretary of Labor. In directing this transfer of authority, the Committee recognizes that S. 724 will terminate DOT's authority over the competitive review of airline mergers and that it would be inconsistent to leave DOT with the responsibility to determine the necessity for labor protection provisions that result from such transactions. Moreover, in light of DOT's expressed philosophy that such protections are inappropriate in today's environment, the Committee believes that the Secretary of Labor would be a more effective administrator of the authority conferred by this legislation.

REPORTING OF FARES AND SERVICE

Increasingly, concerns are being expressed that the recent rise in airline merger activity has resulted in a small number of airlines controlling a disproportionately large share of the market at our Nation's major airports. In certain areas of the country, a particular air carrier may control up to 80 percent or more of the domestic market. DOT does not currently maintain information regarding fares and service in concentrated markets in a manner that can be easily utilized to measure the impact of such concentration on consumers.

In order to determine whether such concentration has in fact occurred and what is its effect on price and service, S. 724 requires DOT to compile, on a quarterly basis, information concerning airline fares and service frequency for travel to or from the largest airports at which one airline provides more than 50 percent of the flights. Under this provision, DOT will be required to examine the 50 largest airports in terms of annual enplanements and determine at which of these airports one carrier offers more than half of the total commercial service. For airports meeting this test, DOT is required to prepare a quarterly compilation listing the flights and fares to or from these airports, and to retain this information for a period of five years.

LEGISLATIVE HISTORY

S. 724 was introduced on March 1 by Senator Ford. As introduced, the bill provided for the termination of the Essential Air Service Program, as well as the early sunset of DOT's authority over airline mergers and acquisitions. On April 23, the Aviation Subcommittee held a hearing on the provisions of S. 724 relating to the early sunset of DOT's antitrust authority.

On June 4, the Committee met in open executive session to consider S. 724. During consideration of the bill, an amendment in the nature of a substitute was offered by Senator Ford, which provided solely for the early termination of DOT's authority over airline mergers and acquisitions, and the subsequent transfer of such authority to DOJ.

Two amendments were considered in executive session. Senator Adams offered an amendment which called for the imposition of labor protection provisions by the Secretary of Labor as a condition for the approval of future airline mergers or acquisitions which are determined to cause a reduction in employment or create adverse wage and employment conditions. The amendment was debated and approved by the Committee on a 15-4 vote.

Senator Danforth offered an amendment, which was revised and agreed to, that would require DOT to compile, on a quarterly basis, the fares and frequency of service offered to or from any of the 50 busiest airports at which one carrier provides more than 50 percent of total commercial passenger service.

Earlier this year, the Senate Committee on the Judiciary reported S. 806, legislation to terminate DOT's authority over airline mergers, acquisitions, interlocking directorates, and agreements involving air carriers. That legislation is similar to sections 2 and 3 of S. 724. In addition, the House Committee on Public Works and

Transportation has reported H.R. 1101, which is similar to section 4 of S. 724, as it is designed to ensure the fair treatment of airline employees in airline mergers and similar transactions.

SUMMARY OF MAJOR PROVISIONS

The bill, as reported, amends Public Law 85-726, the Federal Aviation Act of 1958. The following changes are made to that legislation:

1. The bill provides for the termination of DOT's authority to approve mergers, acquisitions, and interlocking relationships, as well as to immunize such transactions from the antitrust laws. The effect of this legislation will be that future merger applications between U.S. air carriers will be subject to the provisions of the Clayton Act as administered by DOJ. Transactions commenced prior to April 1, 1987 will be completed at DOT and will not be affected by this legislation.

2. The bill provides that in a merger, acquisition, or similar transaction between air carriers, the Secretary of Labor must determine whether such transaction would cause a reduction of employment or adversely affect employees' wages or working conditions, determine the cost of such adverse economic effects, and impose labor protection provisions calculated to mitigate such adverse consequences, unless the projected costs of imposing such provisions would exceed the anticipated benefits of the transaction. The bill amends section 1601 of the Federal Aviation Act of 1958 or provide for the transfer of authority to impose labor protection provisions from DOT to DOL.

3. The bill further provides that DOT compile, on a quarterly basis, the fares and frequency of service offered at any of the 50 busiest airports, measured in terms of annual passenger enplanements, at which one carrier provides more than 50 percent of the commercial airline service to or from that airport.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1987.

HON. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 724, the Airline Merger Transfer Act of 1987, as ordered reported by the Senate Committee on Commerce, Science and Transportation, June 4, 1987. CBO estimates that no significant net costs or savings to the federal government would result from enactment of this bill.

S. 724 would terminate Department of Transportation (DOT) antitrust authority over mergers and interlocking directors. The

Department of Justice (DOJ) would assume this antitrust authority. Under current law, DOT antitrust authority is to sunset January 1, 1989. DOT would continue to have authority over airline agreements (until January 1, 1989) and over foreign air transportation.

The bill would also transfer DOT authority relating to labor protection provisions to the Department of Labor (DOL), and would require that labor protection provisions be imposed if it is determined that an airline merger or similar transaction would cause a reduction in employment or adversely affect the wages and working provisions of any air carrier employee. Such conditions would not have to be imposed if the projected costs of protection would exceed the anticipated benefits of the transaction. In addition, S. 724 would require the Secretary of Transportation to compile information regarding the fares charged and the frequency of service offered by air carriers.

Based on information from DOT, CBO estimates that cost savings resulting from the transfers of authority to the other agencies could be as high as \$200,000 in fiscal year 1988, and less in subsequent years. The magnitude of such savings would depend on the number of proposed mergers. The costs to DOT to compile information regarding the fares charged and the frequency of service offered by air carriers would not be significant. According to information from the Department of Justice, S. 724 would not require any significant increase in its resources because it already reviews and comments on the antitrust implications of proposed mergers. Based on information from DOL, CBO estimates that the costs relating to the labor protection provisions would be \$100,000 to \$200,000 annually. The magnitude of such costs would also depend on the number of proposed mergers.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

NUMBER OF PERSONS COVERED

The transfer of antitrust authority from DOT to DOJ should have no effect on the number of persons covered by antitrust regulation. The primary impact of this legislation will be on airline employees involved in future mergers, acquisitions, or similar transactions, who would be explicitly afforded protections against job loss or the adverse effects on their working conditions of such transactions.

ECONOMIC IMPACT

Because of the requirement that the Secretary of Labor consider the inclusion of labor protection provisions in certain mergers, or acquisitions, the cost of such transactions might increase as a result of this legislation. The Committee anticipates no economic impact from the transfer of antitrust authority to DOT or from the reporting provisions in the bill.

PRIVACY

None of the provisions of this legislation should affect the personal privacy of individuals involved.

PAPERWORK

Section 5 of the bill will result in an increase, although minimal, in the paperwork burden on DOT due to the requirement that it compile the fares and frequency of service at busy airports at which one carrier offers more than 50 percent of the service. Also, the portion of the bill requiring the imposition of labor protection provisions in future airline mergers, acquisitions, or similar transactions will cause an increase in paperwork requirements because of the cost/benefit analysis which may be needed prior to the possible imposition of labor protection provisions.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section states that the short title of the bill is the "Airline Merger Transfer Act of 1987".

SECTION 2.—MERGER TRANSFER AUTHORITY

This section amends section 1601 of the Federal Aviation Act of 1958 to provide for the early sunset of the existing authority of the Secretary of Transportation over airline mergers, acquisitions, consolidations, and interlocking directorates, including the authority to exempt such transactions from the antitrust laws. The Secretary's authority over such transactions is contained in sections 408, 209, and 414 of the Federal Aviation Act of 1958, which under current law, is scheduled to cease to be effective on January 1, 1989. Section 2 accelerates this termination date to the date of enactment.

This section also provides that proceedings commenced at DOT prior to April 1, 1987, or pursuant to final orders adopted by the Secretary under sections 408, 409, and 414 prior to the effective date of termination, will be administered and, as necessary, adjudicated by DOT. Thus, S. 724 would not change the standard for determination of the US Air-Piedmont merger application pending before DOT.

SECTION 3.—CONFORMING AMENDMENTS

This section changes section 7 of the Clayton Act to make that section applicable to airline mergers and acquisitions. These conforming provisions have the effect of subjecting airline mergers to

the same substantive standards as mergers in unregulated industries. This section also amends section 11 of the Clayton Act by withdrawing the authority of the Secretary of Transportation to enforce the Clayton Act with respect to domestic and foreign air carriers.

SECTION 4.—LABOR PROTECTION PROVISIONS

This section amends section 408(b) of the Federal Aviation Act of 1958 to require the Secretary of Labor to determine whether a merger or similar transaction would tend to cause a reduction in employment or adversely affect the wages and working conditions, including the seniority, of air carrier employees. If the Secretary's determination proves that such effects would be realized upon the consummation of the proposed transaction, the Secretary of Labor will be required to impose labor protection provisions designed to mitigate such adverse consequences, including procedures resulting in binding arbitration, if the Secretary considers such procedures necessary. If proponents of the transaction satisfy the burden of proof that the cost of the labor protection provisions would exceed the financial benefits of the transaction, no labor protection provisions would be imposed.

This section transfers to DOL authority under section 408 relating to labor protection provisions, section 204 relating to the exercise and performance of such powers and duties, and authority to grant exemptions under section 416. It also amends section 1601 of the Federal Aviation Act of 1958 to provide for the transfer of all rules and regulations issued by any agency over labor protection provisions to DOL.

SECTION 5.—AIRLINE FARE RECORDKEEPING

This section requires the Secretary of Transportation to compile, on a quarterly basis, the fares and frequency of service offered to or from any of the busiest 50 airports, in terms of annual passenger enplanements, at which one air carrier offers more than 50 percent of the service. The Secretary will be required to retain this information for a period of five years.

ROLLCALL VOTES IN COMMITTEE

In accordance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following record votes during its consideration of S. 724:

On the amendment offered by Senator Adams regarding labor protection provisions:

YEAS—15

Mr. Hollings
 Mr. Inouye ¹
 Mr. Ford
 Mr. Riegle
 Mr. Exon
 Mr. Gore ¹
 Mr. Rockefeller
 Mr. Bentsen
 Mr. Kerry ¹
 Mr. Breaux
 Mr. Adams
 Mr. Packwood ¹
 Mr. Pressler
 Mr. Stevens
 Mr. Tribble ¹

¹ By proxy.

NAYS—4

Mr. Danforth
 Mrs. Kassebaum
 Mr. Kasten
 Mr. Wilson

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE FEDERAL AVIATION ACT OF 1958

The Table of Contents of That Act

TITLE I—TITLE XV

* * * * *

TITLE XVI—SUNSET PROVISIONS

Sec. 1601. Termination of Civil Aeronautics Board and transfer of certain functions.

- (a) Termination of authority.
- (b) Transfer of certain authority.
- (c) Report and assessment by Board.
- (d) Elements for Board consideration.
- (e) Elements for each comprehensive reviews.
- (f) *Labor protection provisions.*

Section 408 of That Act

PROHIBITED ACTS

SEC. 408. (a) * * *

POWER OF BOARD

(b)(1)-(3) * * *

(4) *In any case in which the Secretary determines that the transaction which is the subject of the application would tend to cause reduction in employment, or to affect adversely the wages and working conditions (including the seniority) of any air carrier employee, the Secretary shall impose labor protection provisions calculated to mitigate such adverse consequences, including procedures resulting in binding arbitration, if the Secretary considers such procedures to be necessary. The Secretary shall impose such provisions unless the Secretary finds that the projected costs of imposing such provisions would exceed the anticipated financial benefits of the transaction. The proponents of the transaction shall bear the burden of proving that there will be no adverse employment consequences or that the projected costs of the imposition of such protection would be excessive.*

(c)-(f) * * *

* * * * *

Section 1601 of That Act

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF
CERTAIN FUNCTIONS

TERMINATION OF AUTHORITY

SEC. 1601. (a)(1)-(6) * * *

(7) Sections 408 and 409 of this Act and section 414 of this Act, (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on **[January 1, 1989]** the date of enactment of the Airline Merger Transfer Act of 1987, except to the extent any such sections relate to labor protection provisions: *Provided, That rights, duties, and obligations arising (1) in proceedings commenced before the Department of Transportation prior to April 1, 1987, or (2) pursuant to final orders adopted by the Secretary of Transportation or the Board under sections 408 and 409 and section 414 (relating to such sections 408 and 409) prior to the effective date of termination shall be administered and, as necessary, adjudicated, as if such sections were not terminated.*

(8) * * *

(b)-(e) * * *

LABOR PROTECTION PROVISIONS

(f) *The authority of the Department of Transportation in section 408 relating to labor protection provisions, the authority in section 204 relating to the exercise and performance of powers and duties under section 408, and the authority to make exemptions in section 416 relating to the requirements of section 408, are transferred to the Department of Labor.*

THE CLAYTON ACT

Section 7 of That Act

SEC. 7. No person engaged in commerce or in any activity affecting commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission, *nor any air carrier or foreign air carrier subject to the Federal Aviation Act of 1958, person controlling such air carrier or foreign air carrier, other common carrier, or person substantially engaged in the business of aeronautics*, shall acquire the whole or any part of the assets of another person engaged also in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No person shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission, *nor any air carrier or foreign air carrier subject to the Federal Aviation Act of 1958, person controlling such air carrier or foreign air carrier, other common carrier, or person substantially engaged in the business of aeronautics*, shall acquire the whole or any part of the assets of one or more persons engaged in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to persons purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce or in any activity affecting commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning

the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the anti-trust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the [Secretary of Transportation,] Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission or Secretary.

Section 11 of That Act

SEC. 11. (a) Authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; [in the Secretary of Transportation where applicable to air carriers and foreign air carriers subject to the Federal Aviation Act of 1958] in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, *except air carriers and foreign air carriers subject to the Federal Aviation Act of 1958*, to be exercised as follows:

(b) Whenever the [Commission, Board, or Secretary] *commission or board* vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the [Commission, Board, or Secretary] *commission or board* requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the [Commission, Board, or

Secretary] *commission or board* to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the [Commission, Board, or Secretary] *commission or board*. If upon such hearing the [Commission, Board, or Secretary] *commission or board* as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself, of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the [Commission, Board, or Secretary] *commission or board* may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the [Commission, Board, or Secretary] *commission or board* may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the [Commission, Board, or Secretary] *commission or board* conditions of fact or of law have so changed as to require such action or if the public interest shall so require: provided, however, That the said person may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person required by such order of the [commission, board, or Secretary] *commission or board* to cease and desist from any such violation may obtain a review of such order in the court of appeals of the United States for any circuit within which such violation occurred or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, a written petition praying that the order of the commission, board, or Secretary be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the [commission, board, or Secretary] *commission or board* and thereupon the [commission, board, or Secretary] *commission or board* shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the commission or board until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the [commission, board, or Secretary] *commis-*

sion or board and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors *pendente lite*. The findings of the [commission, board, or Secretary] *commission or board* as to the facts, if supported by substantial evidence, shall be conclusive. To the extent that the order of the [commission, board, or Secretary] *commission or board* is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the commission, board, or Secretary. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that these were reasonable grounds for the failure to adduce such evidence in the proceeding before the [commission, board, or Secretary] *commission or board* the court may order such additional evidence to be taken before the [commission, board, or Secretary] *commission or board*, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The [commission, board, or Secretary] *commission or board* may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

(d) * * *

(e) Such No order of the [commission, board, or Secretary] *commission or board* or judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws.

(f) Complaints, orders, and other processes of the [commission, board, or Secretary] *commission or board* under this section may be served by anyone duly authorized by the [commission, board, or Secretary] *commission or board*, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered or certified mail as aforesaid shall be proof of the service of the same.

(g) Any order issued under subsection (b) shall become final—

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition had been duly filed within such time; but the [commission, board, or Secretary] *commis-*

sion or board may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the [commission, board, or Secretary] *commission or board* has been affirmed, or the petition for review has been dismissed by the court of appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the [commission, board, or Secretary] *commission or board* has been affirmed or the petition for review has been dismissed by the court of appeals; or

(4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the [commission, board, or Secretary] *commission or board* be affirmed or the petition for review be dismissed.

(h) If the Supreme Court directs that the order of the [commission, board, or Secretary] *commission or board* be modified or set aside, the order of the [commission, board, or Secretary] *commission or board* rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the [commission, board, or Secretary] *commission or board* shall become final when so corrected.

(i) If the order of the [commission, board, or Secretary] *commission or board* is modified or set aside by the court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the [commission, board, or Secretary] *commission or board* rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the [commission, board, or Secretary] *commission or board* was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the [commission, board, or Secretary] *commission or board* shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the court of appeals to the [commission, board, or Secretary] *commission or board* for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the [commission, board, or Secretary] *commission or board* rendered upon such rehearing shall become final in the same manner as though no prior order of the [commission, board, or Secretary] *commission or board* had been rendered.

(k) * * *

(l) Any person who violates any order issued by the [commission, board, or Secretary] *commission or board* under subsection (b) after such order has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of any such order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the [commission, board, or Secretary] *commission or board* each day of continuance of such failure or neglect shall be deemed a separate offense.

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100TH CONGRESS
1st Session

SENATE

REPORT
100-107

NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION PROGRAM SUPPORT
AUTHORIZATION ACT

Mr. HOLLINGS, from the Committee on Commerce, Science,
and Transportation, submitted the following

R E P O R T

OF THE

SENATE COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

ON

S. 1487



JULY 10 (legislative day, JUNE 23), 1987.—Ordered to be printed

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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
PROGRAM SUPPORT AUTHORIZATION ACT

JULY 10 (legislative day, JUNE 23), 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 1487]

The Committee on Commerce, Science, and Transportation, having considered an original bill (S. 1487) to consolidate and authorize program support and certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 1487, as reported, would authorize appropriations of \$284,934,000 for fiscal year 1988 and \$296,302,000 for fiscal year 1989 for the National Oceanic and Atmospheric Administration's (NOAA) program support and certain ocean and coastal programs, including title II of the Marine Protection, Research, and Sanctuaries Act of 1972 and the National Ocean Pollution Planning Act of 1978. In addition, it directs the Secretary of Commerce to give priority attention and support to the problem of marine plastic debris.

BACKGROUND AND NEEDS

Legislation authorizing NOAA's general program support and certain ocean and coastal activities expires at the end of fiscal year 1987. S. 1487 is one of a series of bills which together provide a comprehensive authorization for NOAA.

NOAA was created by the President's Reorganization Plan No. 4 of 1970 to consolidate many of the Nation's civilian oceanic and atmospheric programs. The agency's broad goals include the oper-

ation of programs to: (1) manage marine resources for the economic and social good of the Nation; (2) monitor and predict weather and environmental conditions for the protection of life and property; (3) provide basic maps, charts, and surveys for safe navigation; (4) provide research to advance oceanic and atmospheric technology for the better management of the environment and the rational use of our natural resources; and (5) operate satellite systems to provide national and global information.

To accomplish the above goals, NOAA administers: (1) the National Ocean Service; (2) the National Weather Service; (3) the National Marine Fisheries Service; (4) the National Environmental Satellite, Data and Information Service; and (5) the Office of Oceanic and Atmospheric Research. S. 1487 authorizes certain programs in the National Ocean Service and the Office of Oceanic and Atmospheric Research as well as NOAA's program support.

The Committee strongly supports funding for NOAA to continue its current services as well as to meet the administration's requested budget increases. In addition, the Committee recognizes the need to improve scientific understanding of such potentially disastrous climatic events as the "greenhouse effect" and depletion of the atmosphere's protective ozone layer. For these reasons, the bill authorizes funds for NOAA to initiate a focused program examining this problem.

LEGISLATIVE HISTORY

An authorization hearing of the full Committee and the National Ocean Policy Study was held on May 13, 1987. Testimony was received from Mr. John Carey, Deputy Assistant Administrator for NOAA's National Ocean Service, concerning the agency's budget and programs. On June 16, 1987, in open Executive Session, the Committee, without objection, ordered S. 1487 reported.

SUMMARY OF MAJOR PROVISIONS

Authorization of appropriations for fiscal years 1988 and 1989 are provided for program support and most of the ocean and coastal programs in NOAA which are currently under standing authorization. The following budget subactivities are covered: (1) executive direction and administration; (2) marine services; (3) aircraft services; (4) mapping, charting, and geodesy; (5) observation and assessment; (6) ocean and coastal management; (7) ocean and Great Lakes programs; and (8) the global environmental change program. In addition, the bill reauthorizes title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (P.L. 92-532) and the National Ocean Pollution Planning Act of 1978 (P.L. 95-273).

The authorization levels in the bill reflect the need for NOAA to continue its existing commitments and services as well as to fund the new retirement program, the Federal pay raise, and \$11.6 million of administration-requested increases spread throughout the program. In addition, funding is authorized for NOAA to initiate a program examining global environmental change. The fiscal year 1989 authorization includes a four percent increase from the fiscal year 1988 level.

Appropriations are authorized in the following amounts:

AUTHORIZATION

[In thousands of dollars]

	Fiscal year 1988	Fiscal year 1989
Program support:		
Executive Direction.....	56,918	59,194
Marine Services.....	66,579	69,242
Aircraft Services.....	16,026	16,667
Oceans and coastal programs:		
Mapping, Charting, and Geodesy.....	48,641	50,597
Observation and Assessment.....	36,965	38,444
Ocean and Coastal Management.....	4,671	4,818
Oceans research: Oceans and Great Lakes Programs.....	25,134	26,140
Global environmental change: Global Science.....	30,000	31,200

The authorization for global environmental change is to support NOAA's unique and critical contribution to a national program to study global environmental change. The program will involve monitoring global observations, researching oceanic and atmospheric processes, and predicting climate changes.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 1987.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the National Oceanic and Atmospheric Administration Program Support Authorization Act.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.
2. Bill title: National Oceanic and Atmospheric Administration Program Support Authorization Act.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, June 16, 1987.
4. Bill purpose: This bill would authorize appropriations of \$285 million and \$296 million for fiscal years 1988 and 1989, respectively, to the National Oceanic and Atmospheric Administration for program under its purview. These programs include Program Sup-

port, Oceans and Coastal Programs, Oceans Research and Global Environmental Change.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level.....	285	296			
Estimated outlays.....	194	278	88	15	6

The costs of this bill fall within budget function 300.

Basis of Estimate

This estimate assumes that all amounts authorized will be appropriated prior to the start of each fiscal year. Outlays reflect historical spending patterns for these programs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Michael Sieverts.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

S. 1487, as reported, simply authorizes appropriations to continue existing programs and will result in no additional regulations. It will therefore have no further effect on the number or type of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

The short title of the bill is the "National Oceanic and Atmospheric Administration Program Support Authorization Act".

TITLE I—PROGRAM SUPPORT

SECTION 101.—EXECUTIVE DIRECTION AND ADMINISTRATION

This section authorizes \$56,918,000 to be appropriated in fiscal year 1988 and \$59,194,000 in fiscal year 1989 for NOAA's executive direction and administration. The existing authorization of this budget subactivity expires at the end of fiscal year 1987.

SECTION 102.—MARINE SERVICES

This section authorizes appropriations of \$66,579,000 in fiscal year 1988 and \$69,242,000 in fiscal year 1989 for operation, maintenance, and support of vessels essential to NOAA's ocean, coastal,

and atmospheric research. The current authorization expires at the end of fiscal year 1987.

The Committee believes that a decision regarding deactivation of NOAA's fisheries research vessels, prior to the completion of the ongoing feasibility study, would be premature. Additionally, the Committee is concerned that NOAA's fleet rehabilitation efforts may be insufficient to ensure the continued readiness and reliability of the fleet in the future. The vessels are vital to NOAA's successful completion of a variety of important programs including fisheries resource assessments, the fisheries oceanographic cooperative investigation, the status and trends program, nautical charting, and the global climate change initiative.

SECTION 103.—AIRCRAFT SERVICES

This section authorizes appropriations of \$16,026,000 in fiscal year 1988 and \$16,667,000 in fiscal year 1989 for operation, maintenance, and support of aircraft essential to NOAA's ocean, coastal, and atmospheric mission. It includes authorization for Department of Defense and NOAA aircraft activities carried out in support of NOAA's hurricane reconnaissance efforts. The Committee places a very high priority on the agency's ability to provide aerial weather reconnaissance during weather emergencies that threaten life and property.

TITLE II—SELECTED OCEAN AND COASTAL PROGRAMS

SECTION 201.—MAPPING, CHARTING AND GEODESY

This section authorizes appropriations of \$48,641,000 in fiscal year 1988 and \$50,597,000 in fiscal year 1989 for NOAA's mapping, charting, and geodesy duties. These functions are essential to the safety and efficiency of commercial, private, and military aviation, marine transportation, fishing, and offshore and seabed development. In addition to its nautical and aeronautical charting functions, NOAA's Office of Charting and Geodetic Services performs important functions relating to land information systems.

SECTION 202.—OBSERVATIONS AND ASSESSMENTS

This section authorizes appropriations of \$22,365,000 in fiscal year 1988 and \$22,694,000 in fiscal year 1989 for observation and assessment activities. Under this observation and assessment function, NOAA compiles marine observations and develops predictions which allow safe and efficient use of the oceans, coasts and Great Lakes.

In addition, this section authorizes appropriations of \$3,600,000 in fiscal year 1988 and \$3,750,000 in fiscal year 1989 for activities under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.). These activities include preparation and periodic revision of 5-year plans for Federal ocean pollution research, monitoring, and coordination.

Moreover, this section authorizes appropriations of \$11,000,000 in fiscal year 1988 and \$12,000,000 in fiscal year 1989 for NOAA's ocean dumping research activities under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et

seq.). The activities include research on the long-term effects of pollutants in the ocean.

In light of the recent Office of Technology Assessment report, "Wastes in the Marine Environment," which concludes that the quality of our estuarine and coastal waters is declining, the Committee strongly supports NOAA's national status and trends program. This program is the only nationwide pollution assessment effort that uses a uniform method to monitor the marine environment. It is vital in determining the general condition of our coastal environment as well as setting priorities for clean-up.

SECTION 203.—OCEAN AND COASTAL MANAGEMENT

This section authorizes appropriations of \$4,671,000 in fiscal year 1988 and \$4,818,000 in fiscal year 1989 to promote rational use and conservation of the Nation's coastal areas, to facilitate the development of deep seabed hard mineral resources through implementation of an effective legal framework under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 et seq.), and to designate biologically valuable marine areas under title III of the Marine Protection, Research and Sanctuaries Act of 1972. These activities include identifying, designating, and managing areas of the marine environment with special significance due to unique qualities. The sums authorized in this section are in addition to those authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

TITLE III—OCEAN RESEARCH

SECTION 301.—OCEAN AND GREAT LAKES PROGRAMS

This section authorizes appropriations of \$25,134,000 in fiscal year 1988 and \$26,140,000 in fiscal year 1989 to increase our understanding of coastal and marine processes through monitoring and research, and to provide the technical basis for enhancing marine industry. These activities will ensure a better understanding of both natural phenomena and human impact in coastal environments so that optimal usage of coastal areas can be achieved. The sums authorized in this section are in addition to those authorized under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

TITLE IV—GLOBAL ENVIRONMENTAL CHANGE

SECTION 401.—GLOBAL ENVIRONMENTAL PROGRAM

This section authorizes appropriations of \$30 million in fiscal year 1988 and \$31,200,000 in fiscal year 1989 to develop a focused global climate change program.

It is becoming increasingly clear that human activity affects the global environment in ways that we do not fully understand. The Committee recognizes that both human activity and natural climatic variation may result in global changes with profound economic, social, and environmental implications for the future. A comprehensive national and international program of scientific research is

essential for determining policies which respond effectively to these concerns.

U.S. participation in global change research should involve all agencies whose activities contribute to our understanding. The missions of three agencies, the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA), the NOAA, are already closely focused on Earth system observations. At NSF, a global geosciences initiative will contribute to our understanding of basic global environmental processes. NASA's Earth system science will provide new satellite observations to examine the Earth as an integrated system. If the United States is to fulfill its international responsibilities and maintain scientific competitiveness, NOAA's role in this effort must be enhanced.

NOAA's unique and critical contribution to a national program to study global environmental change is a logical expansion of ongoing programs in oceanic and atmospheric observations, monitoring, data processing, predictive modeling, and information management. These activities comprise a substantial Federal capability and are essential to the success of any national effort. The funding levels authorized by this bill are consistent with similar proposals for NSF and NASA and will permit the development of a focused program to study changes in the global climate system. Such a program will involve: (1) global observations, monitoring, and data management; (2) fundamental research on critical oceanic and atmospheric processes; and (3) climate prediction.

TITLE V—REDUCTION OF MARINE DEBRIS

SECTION 501.—MARINE PLASTIC DEBRIS

This section directs the Secretary of Commerce to take steps to ensure that the Department of Commerce gives priority attention and support to efforts relating to the problems posed by marine plastic debris. This debris is accumulating in ocean, coastal and Great Lakes waters at an alarming rate and with devastating impacts upon the living resources and our commerce, safety, and enjoyment of the marine environment. The Committee considers efforts to deal with this growing problem to be critically important and intends that the talents and resources of the Department be focused, coordinated, and used to maximize the effectiveness of those efforts.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.